IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN

S.B. Civil Second Appeal No.361/2005

Smt. Kamla Devi W/o late Shri Iqbal Bahadur
and Five Others
...defendant-appellants
Versus
Ram Richhpal (since deceased) through L.Rs.
Shri Devki Nandan Goyal & Another
...plaintiff-respondents

Date of Order ::: 05.12.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Lokesh Sharma, Counsel for appellants
Shri Arjun Karnani with
Shri Narendra Sharma, Counsel for respondents
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By the Court:-

Learned counsel for the defendant-appellants, on the instructions of defendant-appellants, does not press this appeal on merits and prays that some reasonable time may be granted to the defendant-appellants to handover peaceful and vacant possession of the rented premises to the plaintiff-respondents. Learned counsel for the plaintiff-respondents has no objection in granting time up-to 31st of March, 2008, to the defendant-appellants to handover peaceful and vacant possession of the rented premises.

Both the parties have agreed to the following terms and conditions:-

1. The defendant-appellants undertake to hand-over the vacant and peaceful possession of the rented premises, in dispute, to the plaintiff-respondents on or before 31st of March, 2008. The plaintiff-respondents shall not execute the impugned decree till 31st of March, 2008.

2. The defendant-appellants undertake to pay or deposit the entire arrears of mesne profit/rent, if any, within a period of one month from today and will further continue to pay the monthly mesne profit/rent by 15th day of each succeeding month or in advance to the plaintiff-respondents.

3. The defendant-appellants further undertake that they shall not sub-let, assign or part with the possession of the rented premises or any part thereof in favour of any one else and would not create any third party interest in the same during the aforesaid period.

4. The defendant-appellants shall furnish a written undertaking incorporating the aforesaid conditions, in the Lower Court within a period of four weeks from today, with an advance copy thereof to the plaintiff-respondents.

5. The plaintiff-respondents shall furnish their bank account to the defendant-appellants or their counsel within a period of two weeks from today. In case, the details of the bank account are furnished by the plaintiff-respondents then the defendant-appellants are directed to deposit the

amount of all arrears as well as future mesne profits in the said bank account of the plaintiff-respondents. In case the details of the bank account are not furnished by the plaintiff-respondents then it will be open for the defendant-appellants to deposit the amount, as directed above, in the lower court itself.

It is made clear that in case the defendant-appellants do not comply with any of the aforesaid conditions, then it will be open for the plaintiff-respondents to get the decree passed in their favour executed even before the aforesaid date and to initiate contempt proceedings in this court.

With the aforesaid terms, conditions and directions, the second appeal is accordingly dismissed as not pressed.

In view of the dismissal of the second appeal, the application dated 17.10.2006 filed by the respondents under Order 41 Rule 5 read with Section 151 of the CPC, does not survive and the same is also dismissed.

(Narendra Kumar Jain) J.

//Jaiman//